

NOT INTENDED FOR PUBLICATION IN PRINT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

INDIANA BELL TELEPHONE CO INC)
D/B/A AMERITECH INDIANA,)
MICHIGAN BELL TELEPHONE CO)
D/B/A AMERITECH MICHIGAN,)

Plaintiffs,)
vs.)

WARD, LACY - DISMISSED 1/14/03,)
HODGES, DANNY - DISMISSED)
1/14/03,)
GREGG, SHANE - DISMISSED)
1/14/03,)
SEALE, ROBERT - DISMISSED)
1/14/03,)
WARD PRODUCTS LLC - DISMISSED)
1/14/03,)
E-TEX DATA LLC - DISMISSED)
1/14/03,)
CHERRY MARKETING SERVICES D/B/A)
NATIONAL MARKETING- DISMISSED)
1/14/03,)
THRIFTY CALL INC,)

Defendants.)

CAUSE NO. IP02-0170-C-H/K

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

INDIANA BELL TELEPHONE CO. INC.,)	
d/b/a/ Ameritech Indiana, and)	
MICHIGAN BELL TELEPHONE CO.,)	
d/b/a/ Ameritech Michigan,)	
)	
Plaintiffs,)	CAUSE NO. IP 02-0170-C-H/K
)	
v.)	
)	
THRIFTY CALL, INC.,)	
)	
Defendant.)	

ENTRY ON PETITION FOR ATTORNEY FEES,
TRAVEL EXPENSES, AND COSTS

The jury in this action found that defendant Thrifty Call, Inc. participated in a criminal conspiracy to defraud plaintiff Indiana Bell Telephone Co. The court's has entered judgment in the sum of \$7,255,200.66. The jury awarded, and the court's judgment includes, damages under the Indiana Crime Victim Civil Remedy Act, Indiana Code § 34-24-3-1, which authorizes up to treble damages. The statute also authorizes an award to a prevailing plaintiff of the costs of the action, a reasonable attorney fee, and actual travel expenses incurred by the person suffering the loss to have employees or agents attend court or to provide witnesses to testify. Ind. Code § 34-24-3-1(2), (3), and (4).

Plaintiff Indiana Bell has filed a timely petition for an award of attorney fees, travel expenses, and costs pursuant to the act. Plaintiff seeks an award of \$334,876 in attorney fees, \$2,894.97 in travel expenses, and \$9,066.74 in costs. Defendant Thrifty Call, Inc. has not opposed the request, though defendant has preserved its rights to appeal the judgment on the merits, which is a necessary foundation for plaintiff's petition. Under the Indiana statute, the trial court does not have discretion to deny attorney fees to a prevailing plaintiff, but the court has discretion in determining the amount of a reasonable fee. *Patricia Ann Brown, C.P.A. v. Brown*, 776 N.E.2d 394, 397-98 (Ind. App. 2002).

Plaintiff's attorney fee request is based on actual market rates charged and collected by the attorneys involved. Also, the request shows that the attorneys have exercised billing judgment by reviewing the charges and removing more than \$11,000 in billed time. The court's review shows that the overall time and charges were reasonable, especially in light of the complexity of the case, the duration of the litigation, and the results achieved. The fee request is for less than five percent of the judgment awarded. The court will award all of the requested attorney fee.

The travel expenses are appropriately awarded under Indiana Code § 34-24-3-1(4)(A). Again, there is no challenge to those requests, and the court's review shows no reason to deny or reduce them.

The requested litigation costs are generally in line with the scope of the case. Pursuant to the court's standard practices, the court has excluded a few court reporter charges for certain extra products and services for the convenience of counsel, beyond the needed expenses incurred in obtaining the transcripts. The court award costs in the amount of \$8,626.14.

Pursuant to Rules 54(d) and 58 of the Federal Rules of Civil Procedure, the court will enter a separate judgment in favor of Indiana Bell Telephone Company, Inc. and against defendant Thrifty Call, Inc. in the amount of \$346,397.11.

So ordered.

Date: June 29, 2005

DAVID F. HAMILTON, JUDGE
United States District Court
Southern District of Indiana

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